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General and complete disarmament

Towards a nuclear-weapon-free world: the need for a new agenda

Nuclear disarmament

Reducing nuclear danger

Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

Report of the Secretary-General

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* A/58/50/Rev.1 and Corr.1.

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I. Introduction

1. The present report is being submitted pursuant to the requests contained in the following resolutions adopted by the General Assembly at its fifty-seventh session on 22 November 2002: 57/59, "Towards a nuclear-weapon-free world: the need for a new agenda"; 57/79, "Nuclear disarmament"; 57/84, "Reducing nuclear danger"; and 57/85, "Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*".

2. By paragraph 24 of resolution 57/59, the General Assembly acknowledged the report of the Secretary-General on the implementation of resolution 55/33 C and requested him, within existing resources, to prepare a report on the implementation of the resolution.

3. By paragraph 19 of resolution 57/79, the General Assembly requested the Secretary-General to submit to the General Assembly at its fifty-eighth session a report on the implementation of the resolution.

4. By paragraph 5 of resolution 57/84, the General Assembly requested the Secretary-General to intensify efforts and support initiatives that would contribute towards the full implementation of the seven recommendations identified in the report of the Advisory Board on Disarmament Matters (A/56/400) that would significantly reduce the risk of nuclear war, and also to continue to encourage Member States to endeavour to create conditions that would allow the emergence of an international consensus to hold an international conference as proposed in the United Nations Millennium Declaration, to identify ways of eliminating nuclear dangers, and to report thereon to the General Assembly at its fifty-eighth session.

5. By paragraph 3 of resolution 57/85, the General Assembly requested all States to inform the Secretary-General of the efforts and measures they had taken on the implementation of the resolution and nuclear disarmament, and requested the Secretary-General to apprise the General Assembly of that information at its fifty-eighth session.

II. Observations

6. The year 2003 marks the twenty-fifth anniversary of the tenth special session of the General Assembly, the first devoted to disarmament, when Member States agreed that nuclear weapons posed the greatest danger to mankind and to the survival of civilization. Today, weapons of mass destruction, in particular nuclear weapons, remain a grave concern for the international community. The implementation of disarmament and non-proliferation measures continues to be a major challenge in the maintenance of international peace and security. Various efforts have been made to reduce the existing nuclear arsenals and to strengthen the nuclear non-proliferation regime at the unilateral, bilateral and multilateral levels. Some progress has been made in reducing nuclear weapons and promoting non-proliferation through measures taken by the nuclear-weapon States. On 1 June 2003, the Russian Federation and the United States of America completed the ratification process of the Treaty on Strategic Offensive Reductions (the "Moscow Treaty"). The Secretary-General welcomes this achievement as a positive step towards nuclear disarmament. To contribute further to the strengthening of international peace and

security, the implementation of the Treaty should be done in a transparent, verifiable and irreversible manner.

7. Despite the progress made thus far in reducing the threat from nuclear weapons, further efforts are required to advance the process of nuclear disarmament and non-proliferation. In this regard, existing arms limitation and disarmament agreements need to be strengthened by ensuring full compliance, effective implementation of their provisions and achieving universality. At the second session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, held from 28 April to 9 May 2003 in Geneva, the States parties reaffirmed that the Treaty is the cornerstone of the global non-proliferation regime and the essential foundation for the pursuit of nuclear disarmament. It was noted, nevertheless, that the Treaty should be seen in its larger context of coherent commitments and credible progress towards nuclear disarmament and that nuclear disarmament and non-proliferation were mutually interdependent and reinforcing. The Secretary-General welcomes the accession of Cuba and Timor-Leste to the Treaty, which brings it closer to its universality. The decision by the Democratic People's Republic of Korea to withdraw from the Treaty, the first decision of its kind since its entry into force 33 years ago, is regretted and the Secretary-General strongly urges its reconsideration.

8. Seven years after its opening for signature, the Comprehensive Nuclear-Test-Ban Treaty still lacks the ratifications required for its entry into force. The Secretary-General reiterates his call upon the States which have not yet done so, especially those States whose ratification is necessary for its entry into force of the Treaty, to sign and ratify it at the earliest possible date. Pending the entry into force of the Treaty, it is essential that the moratoriums on nuclear-weapon-test explosions or any other nuclear explosions be maintained.

9. It is regrettable that, for yet another year, the protracted lack of agreement on a programme of work has blocked the resumption of substantive work by the Conference on Disarmament, including on nuclear disarmament. It is of utmost importance that the potential of the Conference as the single multilateral disarmament negotiating body be fully utilized. The Secretary-General urges the Member States of the Conference on Disarmament to renew their efforts and political will so that agreement may be reached on a substantive programme of work.

10. Efforts and initiatives that would contribute towards the full implementation of the seven recommendations identified in the report of the Advisory Board on Disarmament Matters (A/56/400) that would significantly reduce the risk of nuclear war should be intensified and supported. With regard to the proposal contained in the United Nations Millennium Declaration for convening an international conference to identify ways of eliminating nuclear dangers, consultations with Member States demonstrate that the time has not yet come for the consideration of interim measures leading up to the convening of such a conference. In response to the request contained in General Assembly resolution 57/84, the Secretary-General will continue to encourage Member States to endeavour to create the conditions that would allow the emergence of an international consensus to hold an international conference.

11. In view of the grave security threat posed by nuclear weapons, including by the potential use of such weapons by non-State actors, there is a pressing need for

the international community to accelerate the nuclear disarmament process and strengthen nuclear non-proliferation and security measures. In this regard, it is essential for Member States to overcome their divergent positions in the interest of international peace and security. The United Nations, in fulfilling its mandate, will continue to assist Member States in their efforts in the area of nuclear disarmament and non-proliferation, as well as to promote dialogue and public awareness to strengthen support for nuclear disarmament and non-proliferation.

III. Information received from Governments

12. As regards General Assembly resolution 57/85, entitled "Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*", all Member States were invited, via a note verbale dated 5 March 2003, to inform the Secretary-General of the efforts and measures they had taken with regard to the implementation of the resolution. To date, replies have been received from Antigua and Barbuda, Cuba, Mexico and Venezuela, the text of which is reproduced below. Any additional replies received from Member States will be issued as addenda to the present report.

Antigua and Barbuda

[Original: English]
[3 April]

13. With reference to operative paragraph 3, Antigua and Barbuda prescribes to the resolution and has no involvement with anything nuclear; and is irrevocably opposed to any use of nuclear weapons.

Cuba

[Original: Spanish]
[14 May]

14. The advisory opinion of the International Court of Justice of 8 July 1996 on the *Legality of the Threat or Use of Nuclear Weapons* is an historic document in the nuclear weapons sphere and constitutes an important legal precedent which requires appropriate follow-up.

15. Cuba believes that the threat or use of nuclear weapons is illegal under all circumstances and at all times.

16. The very existence of nuclear weapons and of so-called doctrines of nuclear deterrence produces a global climate of instability and insecurity. The only way to prevent future nuclear catastrophes is to completely eliminate and permanently ban nuclear weapons.

17. It should be recalled that paragraph E of the advisory opinion states that: "the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law".

18. The advisory opinion makes it clear that the nuclear-weapon States have a legal obligation not just to pursue but also to conclude in good faith negotiations aimed at achieving complete nuclear disarmament under a strict and effective system of international control.

19. In line with the view expressed by all States Members of the United Nations in the Final Document of the first special session of the General Assembly devoted to disarmament, held in 1978, Cuba considers nuclear disarmament to be the top disarmament priority.

20. Paragraph 50 of the Final Document remains fully relevant, in that it draws attention to the need for the urgent negotiation of agreements leading to: cessation of the qualitative improvement and development of nuclear-weapon systems; cessation of the production of all types of nuclear weapons and their means of delivery, and of the production of fissionable material for weapons purposes; and a comprehensive, phased programme with agreed time frames, whenever feasible, for progressive and balanced reduction of stockpiles of nuclear weapons and their means of delivery, leading to their ultimate and complete elimination at the earliest possible time.

21. The Millennium Declaration adopted by the Heads of State and Government on 8 September 2000 includes the express commitment to "strive for the elimination of weapons of mass destruction, particularly nuclear weapons, and to keep all options open for achieving this aim, including the possibility of convening an international conference to identify ways of eliminating nuclear dangers". Cuba is in favour of holding such a conference as soon as possible.

22. In 2002, despite a dangerous international climate and the permanent hostility shown towards it by the world's main nuclear Power, the only such Power in our hemisphere, Cuba became a party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) and the Treaty on the Non-Proliferation of Nuclear Weapons. In doing so, Cuba gave a further demonstration of its political will and of its firm commitment to the complete eradication of nuclear weapons from the face of the Earth.

23. Cuba regrets that the Conference on Disarmament remains unable to establish an ad hoc committee to negotiate on the issue of nuclear disarmament. It believes that this committee should be established as a matter of priority, with a mandate to commence negotiations on a phased programme of nuclear disarmament aimed at the ultimate elimination of nuclear weapons within a specific time frame and under strict international control.

Mexico

[Original: Spanish]
[13 May]

24. The advisory opinion of the International Court of Justice of 8 July 1996 remains fully valid, in that it states that: "There is in neither customary nor conventional international law any specific authorization of the threat or use of nuclear weapons" and that: "There is an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control".

25. That is why Mexico sponsored General Assembly resolution 57/85 of 22 November 2000, entitled "Follow-up to the advisory opinion of the International Court of Justice of 8 July 1996 on the *Legality of the Threat or Use of Nuclear Weapons*", by which the General Assembly once again called upon all States to fulfil their obligation to commence multilateral negotiations leading to a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination.

26. The Government of Mexico deplores the scant progress made by the nuclear-weapon States in fulfilling their unequivocal undertaking to eliminate their nuclear arsenals and implement the 13 practical steps agreed upon by the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

27. Recently, there have been some worrying developments in the field of nuclear disarmament. The first is the resurgent role of nuclear weapons in the security policies of some nuclear Powers. The second is the weakening of the nuclear non-proliferation regime as a result of the emergence of countries with a nuclear capability that are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons, as well as the possibility that States parties may withdraw from that instrument. Within that context, the Government of Mexico will continue its efforts to promote general and complete disarmament under international control.

28. Moreover, the escalation of the nuclear arms race has been aggravated by the continuing failure of the Conference on Disarmament both to establish a subsidiary body with a mandate to deal with nuclear disarmament and to commence negotiations on a non-discriminatory, multilateral and verifiable treaty banning the production of fissile material for the manufacture of nuclear weapons, as agreed at the 2000 Review Conference.

29. Mexico has emphasized the need to negotiate a legally binding instrument on security assurances of non-use or non-threat of use of nuclear weapons against non-nuclear-weapon States, as well as the urgent need for the nuclear-weapon States to give a legal undertaking not to be the first to use nuclear weapons.

Venezuela

[Original: Spanish]
[16 May]

30. The Government of the Bolivarian Republic of Venezuela is pleased to report that it ratified the Comprehensive Nuclear-Test-Ban Treaty on 13 May 2002. Moreover, two seismological stations of the Comprehensive Nuclear-Test-Ban Treaty Organization have been set up in the states of Anzoátegui and Mérida. Venezuela has also participated in a number of international seminars and meetings on the issue.